IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 19997 of 2007(E)

PETITIONER:

GANGADHARAN PILLAI, KALILUVILAYIL VEEDU,
KODUMON P.O., PATHANAMTHITTA DISTRICT.

BY ADV. SRI.D.KISHORE

RESPONDENTS:

1. THE DISTRICT COLLECTOR,
   PATHANAMTHITTA.

2. THE ASSISTANT EXECUTIVE ENGINEER,
   PWD(ROADS) SUB DIVISION,
   ADOOR.

3. KODUMON GRAMA PANCHAYATH
   REPRESENTED BY ITS SECRETARY,
   KODUMON, PATHANAMTHITTA DISTRICT.

4. THE TAHSILDAR, ADOOR.

G.P. SHRI.I.V.PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.19997 of 2007

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Dated this the 29th day of June, 2007

J U D G M E N T

The petitioner has been threatened with eviction by Ext.P4, by which he has been directed to vacate the proprieties mentioned thereon within 72 hours of receipt of the said notice. The petitioner submits that the petitioner is the absolute owner of the property in question as evidenced by his title deeds and he has not encroached into any Government land. Therefore, Ext.P4 is without jurisdiction. The petitioner also contends that before passing Ext.P4 order, the petitioner has not been given any notice or hearing. The petitioner therefore, seeks quashing of Ext.P4.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader.

3. The learned Government Pleader could not

satisfy me that Ext.P4 has been preceded by any notice or hearing as contemplated under the Kerala Land Conservancy Act and Rules. The same also does not contain any reasons as to why emergency provisions as provided under the Act should be invoked. In the above circumstances, I am satisfied that Ext.P4 has been passed in violation of the principles of natural justice as also the provisions of the Kerala Land Conservancy Act and Rules. However, I do not think it necessary to quash Ext.P4 now in view of the order I propose to pass in this writ petition. The petitioner has already filed Ext.P5 objections to Ext.P4.

4. In the facts and circumstances of the case, I dispose of of this writ petition with the following directions:

The 2nd respondent shall forward Exts.P4 and P5 to the 4th respondent. The 4th respondent shall treat Ext.P4 as a show-cause notice and consider Ext.P5 objections filed by the petitioner after affording an opportunity of being heard to the petitioner

which shall include opportunity to adduce evidence also. Thereafter, the 4th respondent shall pass a speaking order considering the contentions of the petitioner in the light of the evidence which the petitioner may produce before the 4th respondent. Till orders are passed as above, and communicated to the petitioner, the petitioner shall not be evicted from the property in question.

Writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.